IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.25281 of 2007

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Dated: December 6th, 2007

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Between:

Mudupu Chandraiah, S/o. late Sayanna,
Aged 75 years, Occ: Business, R/o.2-2-18/16/1,
Durgabai Deshmukh Colony, Bagh Amberpet,
Hyderabad.

… Petitioner

And

The Commissioner of Police, Hyderabad City,
And others.

… Respondents

Order:

In this writ petition, the petitioner seeks directions by way of Mandamus to direct the Commissioner of Police, Hyderabad to order for transfer of case from Police Station, Asifnagar to Central Crime Station, (Economic Offences Wing) Hyderabad to conduct investigation, to search and seize records and also to arrest the accused persons in Cr.No.439 of 2007.

2. The petitioner herein claims to be the promoter of M/s. Vindhya Developers and Builders Pvt. Ltd., a company registered under the Companies Act, 1956. He has filed a private complaint by filing an

application as contemplated under Section 190 Cr.P.C before the VI Additional Chief Metropolitan Magistrate, Hyderabad against 3 accused persons, alleging that they have committed offences under Sections 120 (B), 420, 406, 467, 468, 471 and 477 (A) of the Indian Penal Code. In the said complaint, it is alleged that though the petitioner is the main promoter of the company, the accused have entered into conspiracy and cheated him. It is his allegation that though he has made huge investments in the company, along with Accused No.1 by name Nandikotla Rami Reddy, however, taking advantage of his sickness, Accused No.1 transferred shares in favour of his son and daughter-in-law by forging his signatures. It is stated in the private complaint that Accused No.1, along with others, has committed cheating, criminal breach of trust, forgery, falsified the accounts and caused loss to him. On filing of such complaint, the Magistrate has taken cognizance and referred the case to the Police concerned, i.e. Police Station, Asifnagar, under Section 156(3) Cr.P.C., for the purpose of investigation. Upon such reference, a case was registered in Cr.No. 439 of 2007 on the file of Police Station, Asifnagar.

3. When the investigation in the aforesaid Crime No. is pending, petitioner filed representation before the Commissioner of Police on 14-11-2007 stating that the case involves huge amount of money and requested to order to transfer the case to Central Crime Station, Hyderabad for the purpose of investigation. On the ground that in spite of such representation no action has been taken, he has come up with this writ petition.

4. Heard learned counsel for the petitioner and learned Government Pleader for Home appearing for respondents.

5. Even according to the private complaint filed by the petitioner, the accused have committed the offences punishable for forgery, cheating, conspiracy etc. The private complaint itself was filed on

07-11-2007 and it was referred for investigation to the concerned Police as contemplated under Section 156(3) Cr.P.C. Once complaint is filed under Section 190 Cr.P.C., it is not for the complainant to choose the investigating agency. Merely because the petitioner has alleged that he made huge investments in the company, that by itself is not a ground to order investigation by C.C.S., Hyderabad as sought by the petitioner. In view of the allegations leveled against the accused in the aforesaid crime, it is perfectly within the purview of the Police concerned, i.e. Police Station, Asifnagar to make investigation in view of the reference made by the Magistrate. Once complaint is filed before the Magistrate, it is for the Magistrate to order investigation by the Police within his area of his jurisdiction. As much as the very complaint itself was filed on 07-11-2007, when the investigation is under process, there is no reason or justification to transfer the case to C.C.S., Hyderabad. As much as the very investigation is under process, in the absnce of any justifiable grounds to interdict the investigation, no relief can be granted to the petitioner in this writ petition by issuing directions as prayed for. The accused persons in the private complaint filed by the petitioner are not even made party respondents in this writ petition.

6. For the aforesaid reasons, the writ petition is liable to be dismissed and is accordingly dismissed at the stage of admission. No order as to costs.

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JUSTICE R. SUBHASH REDDY.

December 6th, 2007
MRR